

NATIONAL CONFERENCE OF STATE LEGISLATURES
EMPLOYMENT AND INSURANCE PROGRAM

Medical Liability Statutes
State Summary Chart

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Alabama	§6.5.482 (1975, 1993) 2 years from date of injury or 6 months from reasonable discovery; no suit may be brought 4 years after date of injury; minors under 4 by age 8 if statute would have otherwise expired by that time	§6.5.544 (1987) <u>\$400,000 limit on non-economic damages, including punitive damages;</u> §6.5.547 <u>\$1 million limit on total damages</u> (court decision upheld cap only in wrongful death actions); §6-11-21 <u>\$250,000 cap on punitive damages except for wrongful death and suits alleging patterns of intentional wrongful conduct, actual malice or defamation</u> ²	§6.5.545 (1987) Discretionary offset; allows the jury to be informed if medical bills and/or lost wages have been paid by a third party	§6.5.543 (1987) Mandatory periodic payment of future damages in medical injury cases in excess of \$150,000		§6.5.548(1997) Expert witness must be certified in same specialty as defendant and must have practiced within previous year		Alabama Supreme Court upheld constitutionality of statute of limitations in <i>Barlow v. Humana</i> , 495 So. 2d 1048 (1986); <i>Tucker v. Nichols</i> , 431 So 2d 1263 (1983); <i>Reese v. Fite Memorial Hospital</i> , 403 so 2d 158 (1981); non-economic damages portion of damage awards limitations ruled unconstitutional in <i>Moore v. Infirmary Assoc.</i> , No. 89-1087, Sp & 27, 1991; cap on total damages, excluding wrongful death, overturned in <i>Ray v. Anesthesia Assoc.</i> , P.C., 674 So.2d 525 (Ala. 1995); punitive damages cap ruled unconstitutional in <i>Henderson v. Alabama Power Co.</i> , 627 So. 2d 878 (1993); non-medical malpractice statute similar to collateral source rule struck down in <i>American Legion Post No. 57 v. Leahey</i> , 681 So. 2d 1337 (1996)
Alaska	§09.10.070 (1962) 2 years from discovery of injury; tolled by disability	§09.17.010 (1997) For injuries after Aug. 7, 1997, non-economic damages cap greater of \$400,000 or plaintiff's life expectancy, in years, multiplied by \$8,000; for severe injury, the greater of \$1 million and life expectancy in years times \$25,000; §9.17.020 (1997) punitive damages cap greater of \$500,000 or 3 times compensatory damages, whichever is greater, unless malicious action, then greater of \$7 million or 4 times compensatory damages; 50% of punitive damages to state fund	§09.55.548 (1992) Mandatory offset of collateral sources, except federal program benefits requiring subrogation and life insurance	§09.55.548 (1976) Discretionary periodic payment of future damages for medical treatment, care or custody, loss of future earnings, or loss of bodily function	§09.55.536 (1976) Mandatory submission of claims to pretrial screening panel, unless court waives this requirement or parties agree to arbitrate; results of screening admissible at later trial	§09.20.185 (1997) Expert witnesses must be licensed and trained in the defendant's discipline and certified by a board recognized by the state		Alaska Supreme Court upheld constitutionality of pretrial screening panels in <i>Keyes v. Humana Hospital Alaska, Inc.</i> , 750 p. 2d 343 (1988)

¹ Expert witness rules commonly established by case history. Summary chart includes only rules established by statute.

² Underline indicates statutes overturned by decisions of court; see *Case History* for specific citation.

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Arizona	§12.502, 542 (1971, 1984) 2 years from injury or death; foreign object or intentional fraud: 1 year from discovery; minor or unsound mind: statute begins upon removal		§12.565 (1976, 1984) Discretionary offset; evidence of collateral sources of payment for economic damages admissible at trial	§12.582 May elect for periodic payments made pursuant to court rule; claim for future damages is effective unless objecting party shows trial or arbitration should not be conducted			§12.568 (1976) Upon request by a party, the court will review the reasonableness for each party's attorney fees	Arizona Supreme Court upheld constitutionality of collateral source rule and mandatory pretrial screening panel requirement in <i>Eastin v. Broomfield</i> , 570 P.2d 744 (1977); periodic payments statute ruled unconstitutional in <i>Smith v. Myers</i> , 191 Ariz. 11, 887 P.2d 541 (1994)
Arkansas	§16.114.203 (1979, 1991) 2 years from the date of injury; foreign objects: 1 year from discovery; minors: before age 9, until age 11; plaintiff must bring suit within 1 year from date of removal of disability			§16.114.208 (1979) Discretionary periodic payment of damages over \$100,000; upon death of claimant, court may deduct future pain and suffering and care expenses		§16.114.207 (1979) Testimony by experts whose compensation depends upon outcome of suit prohibited		
California	Civ. Proc. §340.5 (1975) 3 years after injury or 1 year after discovery, whichever is first; in no even more than 3 years after injury, unless caused by fraud, concealment, or a foreign object; minor under age 6: 3 years or before age 8, whichever is longer; tolled for foreign body cases until reasonable discovery	Civ. §3333.2 (1975) \$250,000 limit for non-economic damages	Civ. §3333.1 (1975) Discretionary offset; evidence of collateral sources may be introduced at trial	Civ. Proc. §667.7 (1975) Mandatory periodic payment of future damages award exceeding \$50,000, upon request of party; payments to continue after death of plaintiff to parties to whom judgement creditor owed a duty of support			Bus. & Prof. §6146 (1975, 1987) Sliding scale fees may not exceed 40% of the \$50,000, 1/3 of the next \$50,000, 25% of the next \$500,000, and 15% of damages exceeding \$600,000	California Supreme Court upheld constitutionality of damage awards limits and collateral source rules in <i>Fein v. Permanente Medical Group</i> , 695 P.2d 665 (1985); periodic payment of damage awards upheld in <i>American Bank and Trust Co. v. Community Hospital of Los Gatos</i> . <i>Saratoga, Inc.</i> , 683 P.2d 670 (1984); attorney fees statute upheld in <i>Roa v. Lodi Medical Group, Inc.</i> , 211 Cal. Rptr. 77 (1985); additional attorneys' fees provisions rejected by voters in 1996

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Colorado	§13.80.102(5) (1988) 2 years from date of accrual; in no event more than 3 years from act; foreign objects: 2 years from discovery; minors under age 6 must bring claim before age 8	§13.21.302 (1988) \$1million limit for damages against a hospital or physician; non-economic damages limited to \$250,000; court may increase limit in certain situations; §13.21.203 (1989) permissible recovery for wrongful death limited to \$250,000; §13.64.302.5(5) (1990) no punitive damages against a physician for adverse outcome of prescription, medically prescribed (1991) or experimental drugs (1991) where FDA protocol was followed; §13-21-102 (1990) punitive damages may not exceed actual damage award; court may increase punitive damages to 3 times in certain situations	§§13.21.111.6 (1986) Mandatory offset for sources not contracted by and paid for by the claimant	§13.64.203 (1988) Mandatory periodic payment of future damage awards exceeding \$150,000	§13.22.402; §13.22.311, 401-409 (1988) Mandatory screening for claims of \$50,000 or less by "arbitration panel"; findings of panel not admissible at trial; court may require mediation of medical injury claims	§13.64.401 Expert witness must be licensed physician and substantially familiar with standard of care on date of injury; §13.20.602 (1988) claimant must file certificate of review which states that an expert was consulted and is competent to testify		Colorado Supreme Court upheld constitutionality of non-economic damage awards cap in <i>Scholz v. Metropolitan and Pathologists</i> , P.C. No. 92.8A277, Co. Supreme Court, April 26, 1993
Connecticut	§52.584 (1969) 2 years from discovery; no more than 3 years after act; §52.555 (1991) wrongful death: 2 years from death; no more than 5 years from disputed act or omission		§52.225a (1985) Mandatory offset; court reduces award by collateral sources of payment received by plaintiff, but credits plaintiff with any premiums paid	§52.225d (1987) Discretionary periodic payment of all damages in excess of \$200,000; the parties have 60 days to reach payment terms for damages over \$200,000; if no agreement is reached, a lump sum is awarded	§§38a-56, 19f (1977) Voluntary pretrial screening; unanimous findings of panel members admissible at trial	§52.184c(d) (1986) Expert witness must be licensed physician practicing for 5 years before date of injury	§52.251c (1986) Sliding scale fees may not exceed: third of first \$300,00; 25% of next \$300,000; 20% of next \$300,000; 15% of next \$300,000; and 10% of damages exceeding \$1.2 million	
Delaware	§18.6856 (1976) 2 years from injury; 3 years from discover if latent injury; minor: age 6 or same as adult	§18.6855 (1976) Punitive damages may be awarded only on finding of malicious intent to injure or will or wanton misconduct	§18.6862 (1976) Discretionary offset; evidence of "public collateral sources of payment" may be introduced (evidence of life insurance or private collateral sources of compensation benefits excluded)	§18.6864 (1976) Discretionary periodic payment of future damages in medical injury actions only; compensation for future pain and suffering and future expenses deducted from balance of payments on death of plaintiff	§18.6801-6814 (1976) submission to review panel on demand; negative opinion admissible as prima facie evidence at any subsequent trial; expert witness testimony may be required for panel	§18.6853-6854 (1976) Required to establish deviation from applicable standard of care unless panel found negligence to have caused injury; experts knowledge of similar locality in order to testify	§18.6865 (1976) Sliding scale fees may not exceed: 35% of first \$100,000; 25% of next \$100,000; and 10% of damages exceeding \$200,000	

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District of Columbia	§12.301-2 (1995) 3 years from reasonable discovery; wrongful death: 1 year from death							
Florida	§95.11 (1972, 1980) 2 years from injury or discovery, no more than 4 years from injury; minors: age 8; if fraud, concealment of injury or intentional misrepresentation prevented discovery within 4 year period, 2 year limit from discovery, not to exceed 7 years after the act	§768.73 (1997) Punitive damages in excess of 3 times economic damages or \$500,000 presumed excessive; <u>§766.207, 209 (1988) where parties agree to binding arbitration, (1) net economic damages for wage loss including to 80% of wage loss and earning capacity; (2) non-economic damages limited to maximum \$250,000 calculated for capacity to enjoy life; where the plaintiff refuses to arbitrate, non-economic damages may not exceed \$350,000 plus net economic damages including past and future medical expenses and 80% of wage loss and loss of earning capacity; no limits where defendant refuses to arbitrate</u>	§768.76 (1986) Mandatory offset by court, except for those collateral sources for which there are subrogation rights; §§766.207, 209 (1988) rule extends to binding arbitration cases	§768.78 (1986) Mandatory periodic payment of future damage award exceeding \$250,000, at the request of a party; defendant may elect to pay lump sum for future economic losses and expenses reduced to present value; §766.207(7)(c) (1988) damages for future economic losses awarded by arbitration payable on periodic basis under 766.202(8)	§766.106-107 (1985) Court may require submission of claim to an arbitrary panel; result not admissible in a later trial	§766.102(c) (1988) Expert testimony by licensed physician in same practice or practicing for 5 years before claim filed	Atty. Conduct Reg. 4-1.5(f)(40(b) Separate sliding scales for cases settling before filing an answer or appointing an arbitrator, cases settling before or after going to trial, and cases in which liability is admitted and only damages contested; 5% extra for cases appealed	Voluntary binding arbitration caps found unconstitutional in <i>Univ. of Miami School of Medicine v. Echarte</i> , no. 90.982, Fla. App. Ct., 3rd district, June 11, 1991; 1975 statute, without the subrogation exception, upheld in <i>Pinillos v. Cedars of Lebanon Hospital Corp.</i> , 403 So. 2d 365 (1981) and <i>Smith v. Department of Insurance</i> , 507 So. 2d 1080 (Fla. 1987); earlier pretrial screening panel provision found unconstitutional in <i>Aldana v. Holub</i> , 381 So. 2d 231 (Fla. 1980)
Georgia	§9.3.71-73, 9.63 (1992) 2 years from injury or death; in no event longer than 5 years from act or death; foreign object: 1 year from discovery; minors: age 7 and, and in no event later than age 10; agreement by parties to arbitrated tolls statute	§51.12.5.1 (1992) \$250,000 cap on punitive damages, unless demonstrated intent to harm	<u>§51.12.1 (1987) Collateral sources evidence admissible to jury</u>		§9.9.61-63 (1997) Voluntary arbitration subject to court review; binding if prior agreement to make it so	§9.11.9.1 (1998) Complaint must generally contain an affidavit of an expert stating that the facts justify a claim of negligence		Georgia Supreme Court upheld as constitutional statute of repose in <i>Craven v. Lowndes County Hospital Authority</i> , 263 Ga. 657, 437 S.E.2d 308 (1993); collateral source rule found unconstitutional in <i>Georgia Power Co. v. Falagan, et al.</i> , No S90A1245, Ga. Sup. Ct. (April 1991); <i>Dentor v. Con-Way Southern Express, Inc.</i> , 261 Ga. 41, 402 S.E.2d 269 (1991)
Hawaii	§657.7.3, 671.18 (1973, 1986) 2 years from discovery, not to exceed 6 years from act; minors: age 10 or within 6 years, whichever is longer; arbitration tolls statute until 60 days after the panel's decision is delivered but for no more than 18 months	§663.8.5, 8.7 (1986) \$375,000 cap for pain and suffering damages; excludes mental anguish, disfigurement, loss of enjoyment of life, and loss of consortium			§601-20 (1986) Mandatory nonbonding arbitration for all cases involving \$150,000 or less; §671.11-20 (1976) mandatory submission of medical injury claim to medical claim conciliation panel; results not admissible at trial		§607.15.5 (1986) Attorney fees must be approved by the court	

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Idaho	§5.219 (1971) 2 years from injury; foreign object: 1 year from reasonable discovery or 2 years from injury, whichever is later	§6.1603 (1987) \$400,000 cap on non-economic damages in any tort action, unless personal injury cause by "willful or reckless misconduct" or felony; cap adjusted annually according to the state's adjustment of the average annual wage; §6.1606 (1990) removed 1992 sunset	§6.1606 (1990) Mandatory offset of collateral sources except for federal benefits, life insurance and subrogation rights	§6.1602 (1987) Discretionary periodic payment of future damage awards exceeding \$100,000, excluding cases involving intentional tort, gross negligence, or extreme deviation from standards unless agreed to by claimant	§6.1001-1011 (1976) mandatory submission of claim to hearing panel; results not admissible at trial	§6.1012 (1990); Claimant must prove negligence by direct expert testimony; §6.1013 (1976) Expert witness must have knowledge of community standards		Idaho Supreme Court upheld constitutionality of statute of limitations in <i>Homes v. IWASA</i> , 657 P.2d 476 (1983); earlier damage awards limit applying only to medical liability overturned in <i>Jones v. State Board of Medicine</i> , 555 P.2d 399 (Idaho 1976) <i>cert denied</i> 431 U.S. 914 (1977)
Illinois	§735.5/13.212 (1992) 2 years from discovery but not more than 4 years from act; statute tolled for disability (where plaintiff is insane, mentally ill or imprisoned); minors: 8 years after act but not after age 22; §740.180/2 (1995) wrongful death: 2 years from death, if statute of limitation on personal injury still valid at time of death	<u>§735.5/2.1115.1 (1997) \$500,000 cap on non-economic damages</u> ; §735.5/1115 (1985) punitive damages not recoverable in medical malpractice cases	§735.5/2.1205 (1992) Claimant may apply within 30 days of judgment for 50% reduction of collateral payments for lost wages or disability benefits; 100% of medical benefits (with exceptions), but not more than 50% of total award	§735.5/2.1705-6 (1985) Voluntary or discretionary periodic payment of future damages awards over \$250,000		§735.5-8 Plaintiff required to provide affidavit stating that competent expert has been consulted	§110.2.1114 (1985) Sliding scale fees may not exceed third of first \$150,000; 25% of next \$850,000 and 20% of damages exceeding \$1 million; §735.5/2.1114 (1992) attorney may apply to the court for additional compensation under certain circumstances	Illinois Supreme Court upheld constitutionality of statute of limitations in <i>Anderson v. Wagner</i> , 402 N.W. 2d 560 <i>app. Dismissed</i> , 449 U.S. 807 (1979), <i>reversing Woodward v. Burnham City Hospital</i> , 377 N.E. 2d 290 (1987); non-economic damage award cap struck down in <i>Best v. Taylor Machine Works</i> , Nos. 81890-81893, 1997 WL 777822 (Dec. 18, 1997); similar 1975 statute overturned in <i>Wright v. Central Du Page Hospital Association</i> , 347 N.E. 2d 736 (1976); pretrial screening panel provision struck down and periodic payment of damage awards upheld in <i>Bernier v. Burris</i> , 497 N.E. 2d 763 (1986)
Indiana	§34-18-7-1 (1998) 2 years from act, omission, or neglect; minors: under age 6 until age 8; applies regardless of minority or other disability	§34-18-18-1 (1998) For acts prior to 1990, \$100,00 cap from a single provider and \$500,000 cap from all providers and Patient Compensation Fund (PCF); as of 1990, \$750,000 cap for all providers and PCF; as of July 1999, \$250,000 limit for each provider and a \$1,250,000 for all providers and PCF; only 1 recovery per single injury; no damage caps in cases not brought against qualified providers	§34.44.1.2 (1998) Collateral sources except life insurance, insurance payments made directly to plaintiff, plaintiff's family or state/federal benefits paid before trial admissible at trial	§34.18.15.1 (1985) Discretionary periodic payment	§34.18.8.4-6 (1975) mandatory submission of claim, unless parties agree otherwise, of claims more than \$15,000; panel determination is admissible at any later trial	§34.18.10.23 Medical review panel's testimony may qualify as expert testimony to establish prima facie	§16.9(5).5.1 (1975) Plaintiff's attorney fees may not exceed 15% of any award that is made from PCF (covers portion of an award that exceeds \$100,000)	Indiana Supreme Court upheld constitutionality of statute of limitations, but established an exception where medical condition prevented discovery in <i>Martin v. Richey</i> , 711 N.E.2d 1273, 1279 (1999); original 1975 pretrial screening panel, limits on damage awards, and statute of limitation provisions upheld as constitutional in <i>Johnson v. St. Vincent Hospital</i> , 404 N.E. 2d 585 (1980); <i>St. Anthony Medical v. Smith</i> , no 37A04.9010 CV.460, Ind. App. Ct. May 28, 1992.; <i>Bova v. J.H. Roig, M.D.</i> , no. 56A03.9110.CV.313, Ind. App. Ct., 1st Dist., December 7, 1992

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Iowa	§614.1(9) (1997) 2 years from reasonable discovery but not more than 6 years from injury unless foreign object; minors under age 8: until age 10 or same as adults, whichever is later; mentally ill: extends to 1 year from removal of disability		§147.136 (1975) Mandatory offset of collateral sources	§668.3 (1987) Discretionary court-ordered periodic payment of future damages	§679A.1 (1981) Written arbitration agreement valid and irrevocable	§147.139 Qualifications of the expert must relate directly to problem at issue	§147.138 (1975) Court may review fees in any personal injury or wrongful death action against specified health care providers or hospitals	Eight Circuit upheld constitutionality of original 1945 statute of limitation in <i>Fitz v. Dolyak</i> , 712 F. 2d 330 (1983)
Kansas	§60.513.7(c) (1965) 2 years from act or reasonable discovery by not more than 4 years after injury; incompetent: 1 year from removal, but no more than 8 years from act	§60.3702 (1994) In any civil action, punitive damages limited to lesser of defendant's highest gross income for prior 5 years or \$5 million; if profitability of misconduct exceeds cap, court may award 1.5 times profit instead; judge determines punitive damage; punitive damages unavailable in wrongful death cases	<u>§60.3801-3807 (1992) Collateral sources admitted where plaintiff claims \$150,000 or more in damages</u>		§65.4901 (1976) Voluntary submission to medical screening panel upon request of party; §60.3501-3509 (1987) decisions admissible at any subsequent trial	§60.3412 50% of the expert's professional time over preceding 2 years must have been devoted to clinical practice		Kansas Supreme Court upheld constitutionality of statute of limitations in <i>Stephens v. Snyder Clinic Association</i> , 631 P.2d 222 (1981); collateral source rule ruled unconstitutional in <i>Thompson v. KFB Insurance Company</i> , No. 68,452 (1993), Ks. Sup. Ct; earlier discretionary offset (1985.1988: 60.3403) that applied only to medical liability actions struck down in <i>Farley v. Engleken</i> , 740 P.2d 1058 (1987); 1965 cap on damage awards and periodic payment provision found unconstitutional in <i>Kansas Malpractice Victims v. Bell</i> , 757 P.2d 251 (1988)
Kentucky	§413.140 (1974) 1 year from act or reasonable discovery, but not more than 5 years after act; minor and unsound mind: statute runs when disability lifted		<u>§411.188.3 (1988) Discretionary offset of collateral sources except life insurance</u>		§417.050 (1984) Written arbitration agreements enforceable and irrevocable			Kentucky Supreme Court ruled unconstitutional 5 year statute of limitations in <i>McCullum v. Sisters of Charity of Nazareth Health Corp.</i> , 799 S.W.2d 15 (1990); collateral source rule overturned in <i>O'Bryan v. Hedgespeth</i> , 892 S.W.2d 571 (1995)
Louisiana	§9.5628 (1975, 1987) 1 year from act or date of discovery, but no later than 3 years from date of injury; applies regardless of minority or disability; Civ. Code §2315.2 wrongful death: 1 year from death	\$100,000 liability limit for qualified health care providers; punitive damages not recoverable, except in certain situations				§40.122.47 Medical review panel's report considered expert testimony		Appellate Court upheld the constitutionality of statute of limitations in <i>Valentine v. Thomas</i> , 433 So. 2d 289 (1983); Louisiana Supreme Court upheld the constitutionality of limits on damage awards in <i>Williams v. Kushner, slip. Op.</i> , 88.C.1153, 88.C.1188 (September 12, 1989), <i>hr'g.</i> denied, 549 So. 2d 294 (1989), <i>Butler v. Flint Goodrich Hospital of Dillard University</i> , Supreme Court of Louisiana, no. 92cc 0559, (4th Circuit), October 19, 1992; 1976 pretrial screening panel provision upheld in <i>Everett v. Goldman</i> , 359 So. 2d 1256 (1978).

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Maine	§24.2902 (1977) 3 years from cause of action; 6 years after accrual for minors or within 3 years of minority, whichever is first; foreign objects: accrue from reasonable discovery; incompetence: accrue upon lifting of disability	§18A.2.804 (1999, 1990) For wrongful death cases, non-economic damages limited to \$400,000 and punitive damages limited to \$75,000	§24.2906 (1990) Mandatory offset of collateral sources that have not exercised subrogation rights within 10 days after a verdict for the plaintiff	§24.2951 (1985) Mandatory periodic payments of future economic damages exceeding \$250,000 at the request of a party	§24.2851-59 (1990, 1986-1989) Mandatory submission of medical injury claims to a "pre-litigation screening and mediation panel" except where all parties have agreed to bypass; any findings unanimous and unfavorable to the claimant as to both negligence and causation are admissible at any subsequent trial; for claims after January 1, 1991, panel's discovery is deemed court discovery at any subsequent trial		§24.2961 (1985-1987) Sliding scale fees may not exceed: third of first \$100,000; 25% of next \$200,000 and 20% of damages that exceed \$200,000; for purpose of rule, future damages are to be reduced to lump-sum value	
Maryland	Cts. & Jud. Proc. §5.109 (1975) 5 years from act or 3 years from discovery, whichever is earlier; minors: statute begins at age 11; excepts reproductive system damage or foreign object injury; Cts. & Jud. Proc. §3.904 (1995) wrongful death: must be filed with 3 years of death	Cts. & Jud. Proc. §11.108 (1986, 1994) In any action for damages for personal injury accruing after October 1, 1994, \$500,000 cap on non-economic damages; increased \$15,000 every subsequent October; separate cap for each "direct victim"; wrongful death cases may not exceed 150% of cap		Cts. & Jud. Proc. §11.109 (1986) Discretionary periodic payment of future economic damages	Cts. & Jud. §3.2A.03-06 (1995) Discretionary submission of claims to a "health claims arbitration panel"; panel's decision on fault is "presumed to be correct" and its award is admissible as evidence at any subsequent trial; rejecting party liable to other for costs if verdict less favorable than findings	§3.2A.04 (1997) Within 90 days of filing, claimant must file certificate of expert consultation	Cts. & Jud. Proc. §3.2A.07 (1976) Court or pretrial screening panel will review disputed fees in medical injury actions	Damage award cap on non-economic damages ruled constitutional in <i>Murphy v. Edmonds</i> , 325 Md. 342, 601 A.2d 102 (1992)

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Massachusetts	§§231.60D; 260.4, 7 (1986) 3 years from date of injury, but not more than 7 years from injury unless foreign object; minors: before age 6 until age 9; tolled for disability	§231.60H (1986) \$500,000 cap for non-economic damages, with certain exceptions; if the total amount of general damages from a single occurrence for all plaintiffs exceeds \$500,000, then the amount of such damages recoverable by each plaintiff will be reduced to a percentage of \$500,000 proportionate to that plaintiff's share of the total amount	§231.60G (1986) Mandatory offset determined by the court		§231.608 (1975) Mandatory submission or medical injury claims to a "medical malpractice tribunal"; decision admissible at any subsequent trial; if tribunal finds against claimant, claimant must post \$6,000 (or greater) bond for defendants costs if unsuccessful		§231.601 (1986) Sliding scale fees may not exceed: 40% of first \$150,000, 33.33% of next \$150,000, 30% of next \$200,000 and 25% of damages that exceed \$500,000; further limits if claimants recovery insufficient to pay medical expenses	Massachusetts Supreme Judicial Court upheld the constitutionality of pretrial screening panel requirement in <i>Paro v. Longwood Hospital</i> , 369 N.E. 2d 993 (Mass. 1977)
Michigan	600.5838a, 5851(1846-1986) 2 years from injury or 6 months from reasonable discoverability, whichever is later, not to exceed 6 years; 6 years tolled for fraud or reproductive systems; disabled plaintiff: 1 year after injury except in cases of reproductive injury; foreign object: 6 months; minors under age 8: 6 years from date of occurrence or age 10, whichever is later (if action brought after 10th birthday, must be within the 6 year limit)	§600.1483 (1986) After April 1, 1994, \$280,000 cap on noneconomic damages, adjusted annually for inflation; \$500,000 cap for non-economic damages applies to certain other circumstances	§600.6303 (1986) Mandatory offset of collateral sources, except life insurance, admissible after a verdict for plaintiff	§600.5056 (1975) third of a medical malpractice arbitration award, unless parties stipulate awards in excess of \$50,000, to be paid lump sum; §600.6307 (1986) mandatory periodic payment of future economic damages excluding future medical, other health care costs and collateral source benefits; future non-economic damages reduced to gross percent cash value	§600.4903,15, 17, 21 (1987) Mandatory review by medication panel; party rejecting panel's evaluation must pay opposing party's actual cost unless verdict more favorable than panel; §600.2912g (1975) parties may enter into binding arbitration if total damages claimed are less than \$75,000	§600.2912 Expert must be a licensed health professional, practice in a similar specialty, be board certified (if required on specialty), during the year preceding action had clinical or academic experience in specialty; certificate of consultation must be filed	Mich. Court Rules 8.121(b) (1981) Maximum contingency fee for a personal injury action is third of the amount recovered	
Minnesota	§541.07 (1935, 1982) 2 years from injury or termination of treatment; tolled for insanity; infant's claim must be asserted within 7 years from injury or 1 year after age of majority		§548.36 (1986) Mandatory offset of collateral sources by court if defendant brings in evidence of payments made to plaintiff	§549.25 (1988) Discretionary periodic payment of future damages in excess of \$100,000		§145.682 (1989) Claimant must file an affidavit stating that an expert has been consulted		Eighth Circuit has upheld the constitutionality of the statute of limitation in <i>Jewson v. Mayo Clinic</i> , 691 F. 2d 405 (1982)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Mississippi	§15.1.36 (1976) 2 years from act or reasonable discovery, within 7 years after the act; mentally incompetent plaintiffs: 2 years after disability ceases; minors under 6: 2 years after age 6 or death, whichever is first; tolled for insanity					§11.1.61 (1990) Expert witness must be licensed physician		
Missouri	§516.105 (1976) 2 years from act; foreign object: 2 years from discovery; in no event longer than 10 years from act or 10 years from minor's 20 th birthday, whichever is later; minor under 8: until age 20	§538.210 (1986) Cap on non-economic damages adjusted annually for inflation; approximately \$500,000 in 1997		§538.220 (1986) Mandatory periodic payment of future damages over \$100,000 at the request of party		§538.225 Affidavit of expert consultation must be filed within 90 of filing of filing action		Supreme Court of Missouri upheld constitutionality of statute of limitation in <i>Ross v. Kansas City Gen. Hosp. & Med. Ct.</i> , 608 S.W. 2d 397 (1980); statute of limitation from minors 12 and older ruled unconstitutional in <i>Strahler v. St. Luke's Hospital</i> , 706 S.W.2d 7 (1986); limit on damage awards upheld in <i>Adams v. Childrens Mercy Hospital</i> , no. 73 867, Mo. Sup. Ct., (1991); pretrial screening panel provision overturned in <i>State ex rel. Cardinal Glennon Memorial Hospital v. Geartner</i> , 583 S.W. 2d 107 (Mo. Banc. 1979)
Montana	§27.2.205 (1971) 3 years from injury or discovery; in no event more than 5 years from act; tolled against a potential plaintiff where there has been a failure of disclosure of the act; minors under age 4: 3 years of age 8 or death, whichever occurs first	§25.9.411 (1995) court to impose a \$250,000 limit any jury award for non-economic damages, for causes of action arising as of Oct. 1, 1995	§27.1.308 (1987) Mandatory offset of collateral sources by judge for awards greater than \$50,000, in bodily injury and death cases	§25.9.4.3 (1995) Mandatory periodic payment at the request of party for awards in excess of \$50,000, as of Oct. 1, 1995; in case of death, payments property of estate	§27.6.701 (1977) Mandatory review by Medical Legal Panel for actions not subject to valid arbitration agreement; panel report neither binding nor admissible at trial			Montana Supreme Court upheld the constitutionality of the pretrial screening panel statute in <i>Linder v. Smith</i> , 629 P.2d 1187 (1981)
Nebraska	§§25.222; 44.2828 (1976, 1996) 2 years from act or 1 year from reasonable discovery, but no more than 10 years after date of act; §25.213 under 21 or mentally disabled: statute runs from removal; §30.810 wrongful death: 2 years from death	§44.2825 (1976, 1986) \$1 million limit on recoveries against health care providers qualifying for state-sponsored excess insurance; fundamental rule of Nebraska law prohibits punitive, vindictive, or exemplary damages	§44.2819 (1976) Non-refundable medical reimbursement insurance benefits credited against judgement, in certain actions		§44.2840-1 (1976) Mandatory review of medical injury claims except where plaintiff affirmatively waives his right to panel hearing; the panel report is admissible in any subsequent trial		§44.976 Court review for reasonableness of attorney fees in cases against health care providers	Nebraska Supreme Court upheld the constitutionality of the limit on damage awards, collateral source rule and pretrial screening panel requirement in <i>Prendergast v. Nelson</i> , 256 N.W. 2d 657 (1977)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Nevada	§41A.097 (1985-1989) 4 years from injury or 2 years from reasonable discovery, whichever is first; tolled for concealment; minors: statute runs until age 10 for brain damage or birth defects; if sterility alleged, statute runs 2 years after discovery; tolled for insanity or minors ward of state	§42.005 (1996) \$300,000 or 3 times compensatory damages cap on punitive damages, only awarded for fraud, oppression, or malice	§42.020 Damages against health care providers reduced by amount of any prior payment by health care provider to the claimant; mandatory offset		§41A.003-069 (1985) Mandatory submission of claims to pretrial screening panel; decision and findings of panel concerning specific complaint at issue in a subsequent trial are admissible in court; unfavorable panel ruling makes claimant responsible for defendant's court cost, if loses at trial	§41A.097 (1996) Claimants must offer "expert medical testimony" showing a deviation from the standard of care		
New Hampshire	§507.C:4 2 year limit specific to medical malpractice found unconstitutional; §§508:4,8 (1986) 3 years from injury or reasonable discovery; infant or incompetents: 2 years from removal of disability	<u>§507.C:7 (1977) \$250,000 cap on non-economic damages;</u> §556:13 \$50,000 cap on wrongful death damages and restricted to immediate or dependent family members; after 1998, wrongful death cap raised to \$150,000 and restricted to surviving spouse; <u>§507:16 punitive damages prohibited</u>	<u>§507.C:7(l) (1977) Abolishes collateral source rule in medical malpractice cases</u>	§524:6.a (1997) Periodic payment awarded at court discretion		§507.E.2 (1997) Claimants must provide expert testimony to support their claims	§508:4.e (1986) Fees for actions resulting in settlement or judgement of \$200,000 or more shall be subject to court approval	New Hampshire Supreme Court struck down as unconstitutional the limit on non-economic damage awards, mandatory offset of collateral sources, and earlier provisions for discretionary award of periodic payment of future damages and attorney fees in <i>Carson v. Maurer</i> , 424 A. 2d 825 (1980); \$875,000 limit on non-economic damages found unconstitutional in <i>Brannigan v. Usitalo</i> , no. 90.377, N.H. Sup. Ct. March 13, 1991
New Jersey	§2A:14.2, 14.23 (1987) 2 years from accrual of claim or discovery; under 21 or insane: runs upon removal; wrongful death: 2 years from death, 6 months after the death is not computed as part of the time period	§2A:15.5.14(b) (1997) punitive damages cap of \$350,000 or 5 times compensatory damages, whichever is greater	§2A:15.97 (1987) Mandatory offset of collateral sources, excluding workers' compensation or life insurance, admissible at trial and deductible from any verdict for plaintiff		§4:21A.1-8 (1985) Voluntary arbitration of medical claims by written agreement, if claim under \$20,000	§2A.53A.27 Affidavit of consultation of expert must be filed within 60 days of filing action	Court Rules §1:2107 (1976) Sliding scale fees may not exceed third of first \$500,000, 30% of second \$500,000, 25% of third \$500,000 and 20% of fourth \$500,000; 25% cap for a minor or an incompetent plaintiff	New Jersey Supreme Court upheld the constitutionality of a 1978 pretrial screening panel statute in <i>Perna v. Pirozzi</i> , 457 A.2d 431 (1983)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
New Mexico	§41.5.13, 22 (1976) 3 years from injury; minors under 6: until age 9 to file suit; applies to all persons regardless of minority or disability; the statute is tolled upon submission to hearing panel and shall not run until 30 days after panel final decision	§41.5.6-7 (1976) \$600,000 (\$500,000 for acts prior to April 1995) cap to all damages, excluding punitive damages and medical care and related costs; health care providers not liable for any amount over \$100,000; future medical expenses not be awarded as monetary damages		§41.5.7 (1976) Mandatory periodic payment of damages for future medical care up to \$200,000, after which patient's compensation fund must pay	§41.5.14-20 (1976) Mandatory submission of medical injury claims to a hearing panel; panel report is not admissible at any subsequent trial			
New York	CVP §214.a (1975) 2 1/2 years from injury or from last treatment where there is continuous treatment for condition giving rise to claim; foreign object: 1 year from discovery; incompetence tolls statute for maximum 10 years		Civ. Prac. §4545 (1981) Mandatory offset of collateral sources made by the court	Civ. Prac. §5031-5039 (1985) Mandatory periodic payment of future damages in excess of \$250,000; parties may agree to lump sum payment; pain and suffering damages paid within a period no longer than 10 years	CPLR §3045 (1991) Defendant may concede liability if plaintiff agrees to arbitrate; if plaintiff refuses, defendant's concession of liability cannot be used for any other purpose; Public Health §4406.2 HMOs can put arbitration clauses in contracts, but not as a condition of joining	§3012.A Certificate of consultation of expert must be filed within 90 days of filing complaint	Jud. §474a (1985) Sliding scale fees may not exceed 30% of first \$250,000, 25% of second \$250,000, 20% of next \$500,000, 15% of next \$250,000 and 10% over \$1.25 million	New York's highest court upheld the constitutionality of a pretrial screening panel statute in <i>Treyball v. Clark</i> , 483 N.E. 2d 1136 (N.Y. 1985)
North Carolina	§1.15 (1979) 3 years from act or 1 year from reasonable discovery, but not more than 4 years after injury; foreign object: 1 year from discovery, but not more than 10 years from last act; wrongful death: 2 years from death	§1D.25 (1995) Punitive damages cap of \$250,000 or 3 times compensatory damages, whichever is greater			§7A.38.1 (1997) Mandatory mediation	§90.21.12 (1990) Expert must testify to community standard of care; §8C.1 Rule 702 expert must be licensed		North Carolina Court of Appeals upheld the constitutionality of the statute of limitations in <i>Roberts v. Durham County Hospital Corp.</i> , 289 S.E. 2d 875 (N.C. App. 1982)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
North Dakota	§§28.01.18, 25 (1975) 2 years from act or reasonable discovery, but not more than 6 years after act, unless concealed by fraudulent conduct of defendant; disability, except minority, tolls statute for 5 years, in no case after 1 year from removal of disability or 6 years total; minors: 12 years	§32.42.02 (1995) \$500,000 cap on non-economic damages; §32.03.2.08 economic damage awards in excess of \$250,000 subject to court review for reasonableness	§32.03.2.06 (1987) Discretionary offset of collateral sources, excluding life insurance, death or retirement benefits or any insurance purchased by recovering party	§32.03.2.09 (1987) Discretionary periodic payment of future economic damages for continuing institutional or custodial care for a period of more than two years; adequacy of payments subject to continuing court review	§32.42.03 (1996) Attorneys must disclose alternative dispute resolutions option; good faith effort to resolve dispute required	§28.01.46 A claimant is required to obtain supportive expert opinion within 3 months of filing complaint		A \$300,000 limit on medical liability awards and an earlier discretionary offset in cases involving \$100,000 or more were struck down as unconstitutional in <i>Arneson v. Olson</i> , 270 N.W. 2d 125 (N.D. 1978)
Ohio	§2305.11 B(1) (1990) 1 year after reasonable discovery; if plaintiff gives written notice before the 1 year expires, suit may be brought within 180 days of the notice; persons with legal disability must bring suit within 4 years after occurrence; for actions accruing as of Jan. 27, 1997, 6 year statute of repose; minor, unsound mind, or imprisoned: tolled until disability removed; wrongful death: 2 years from death	§2323.54 (1997) as of Jan. 27, 1997, non-economic cap of \$250,000 or 3 times economic damages up to \$500,000, whichever is greater; for more serious loss, \$1 million or \$35,000 times remaining life expectancy; §2315.21 (1997) punitive damages cap or \$100,000 or 3 times compensatory damages, except for defendants that employ more than 25 persons, for whom cap is \$250,000 or 3 times compensatory damages; prohibits punitive damages if defendant already paid amount of cap of punitive damages in another case	§23 (1975) Evidence of collateral sources in medical actions, except for insurance benefits paid for by plaintiff or employer (but including workers' compensation), admissible at trial	§2323.57 (1987) Mandatory periodic payment of future damages over \$200,000 at request of party	§2711.21 (1975, 1987) Voluntary submission of medical injury claims to an "arbitration board" upon agreement of all parties; decision is not admissible at any subsequent trial; prior to 1987 amendment, submission was mandatory and results were admissible	§2743.43 (1975) Expert testimony limited to licensed physician or surgeon who devotes 3/4 time to active clinical practice or teaching; §2305.01.1 claimant must file certificate of consultation with expert		Ohio Supreme Court struck down a \$200,000 limit on general damages in <i>Morris v. Savoy</i> , No. 89.1807, Ohio Sup. Ct. (1991); a \$250,000 limit on non-economic damages overturned in <i>Gladon v. Greater Cleveland Regional Transit Authority</i> , No. 64029, Ohio App. Ct., 8th App. Desk., Cuyahoga County (1994); the 8th District twice upheld the collateral source rule in <i>Morris, et al. v. Savoy</i> , No. 89.1807, Ohio Sup. Ct. (1991) and <i>Charles William May v. Tandy Corp., et al.</i> , No. 62679, Ohio App. Ct., 8th Dist., Cuyahoga Co., (1993) and <i>Gladon v. Greater Cleveland Regional Transit Authority</i> , No. 64029, Ohio App. Ct., 8th App. Dist., Cuyahoga County (1994); the Court of Appeals of Ohio (11th District) struck down collateral source rule in <i>Schenk v. The Cleveland Electric Illuminating Company</i> , No. 92.L.161 (1994); Ohio Supreme Court upheld the 1975 pretrial screening panel statute in <i>Beatty v. Akron City Hospital</i> , 424 N.E. 2d 586 (1981)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Oklahoma	§§76.18 (1987) 2 years from reasonable discovery; <u>after 3 years from act, recovery limited to past and future actual medical and surgical expenses</u> ; §12.96 (1988) minors under 12: 7 years; minors over 12: 1 year after attaining majority but in no event less than 2 years from injury; incompetents: 7 years from injury unless adjudged incompetent, then 1 year after such adjudication, but in no event less than 2 years from injury	§23.9.1 (1998) \$100,000 cap on punitive damages for reckless disregard; punitive damages cap of \$500,000, 2 times compensatory damages, or benefit derived by defendant from his conduct for intentional and malicious acts (waived in certain circumstances); discretionary waiver of damages by court if defendant already paid punitive damages for same action	Discretionary offset of collateral sources				§5.7 (1953) Maximum percentage: fee may not exceed 50% of net judgement	Oklahoma Supreme Court upheld 2 year statute of limitations as constitutional in <i>McCarroll v. Doctors General Hospital</i> , 664 P. 2d 382 (Okla. 1983); 3 year statute of repose on all damages other than past and future medical and surgical expenses ruled unconstitutional in <i>Wofford v. Davis</i> , 764 P.2d 161 (Okla. 1988); earlier limit on damage awards struck down in <i>Reynolds v. Porter</i> , 760 P.2d 816 (Okla. 1988)
Oregon	§§12.110;160 (1988) 2 years from reasonable discovery; but not more than 5 years from act; fraud: 2 years from reasonable discovery; minors or insane: 5 years from accrual or 1 year after disability ceases; wrongful death: 3 years from death or reasonable discovery	<u>§18.540, 560 (1987) \$500,000 cap on non-economic damages</u> (overturned except with regard to wrongful death); §18.550 (1989) no punitive damages awarded against licensed physician unless malice is shown; 60% of punitive damages paid to Criminal Injuries Compensation Account	§18.580 (1987) Discretionary offset after judgement of collateral sources by court, except benefits plaintiff must repay, life insurance, retirement, disability, pension plans or social security				§18.540 Attorneys fees from punitive damages may not exceed half the claimant's 40%	Oregon Supreme Court ruled non-economic damages cap unconstitutional, except in wrongful death suits, in <i>Lakin v. Senco Products, Inc.</i> , 329 Or. 62, P.2_, 1999 WL 498088 (July 15, 1999)
Pennsylvania	§42.5524 (1975) 2 years from injury or reasonable discovery; §42.5533 minor: 2 years after age of majority	§40.1301.812.A(g) (1997) Effective Jan. 25, 1997, punitive damages cap of \$100,000 or 2 times compensatory damages; members of Medical Professional Liability Catastrophe Loss Fund, in effect, subject to limited liability			§40.1301.825A (1975) Mandatory "conciliation hearing", which may be a settlement conference or mediation as the parties prefer	§1301.821.A Attorney's signature on a complaint certifies that attorney has consulted an expert who will attest to position		Pennsylvania Supreme Court found a statute providing for a mandatory offset of collateral sources in medical liability actions unconstitutional by the in <i>Mattes v. Thompson</i> , 421 A. 2d 190 (Pa. 1980); earlier mandatory pretrial screening panel struck down in <i>Mattes v. Thompson</i> , 421 A. 2d 190 (Pa. 1980); panels may exist as long as participation is voluntary and the outcome is not binding; attorney fee limits struck down in <i>Heller v. Frankston</i> , 504 Pa. 528, 475 A.2d 1291 (1984)
Rhode Island	§§9.1.14.1; 10.7.2 (1976, 1988) 3 years from injury, death or reasonable discovery; minors and incompetents: 3 years from removal of disability	§9.1.8 (1997) Punitive damages not recoverable against executor or administrator of an estate; §9.19.41 (1997) \$100,000 minimum recovery in any wrongful death action	§9.19.34.1 (1986) Mandatory offset by court in medical liability actions, if evidence is admitted	§9.21.12-13 (1986) Mandatory conference on periodic payment where judgment exceeds \$150,000		§9.19.41 (1997) expert must have training/ education to qualify as an expert		Pretrial screening panels were found unconstitutional in <i>Boucher v. Sayeed</i> , 459 A. 2d 87 (R.I. 1983)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
South Carolina	§15.35.45, 15.3.40 (1977-1988) 3 years from injury or reasonable discovery, but not more than 6 years after act; foreign object: 2 years from discovery; minors: tolled, but no more than 7 years from act or 1 year from majority; tolled for disability, up to 5 years or 1 year after disability ceases							
South Dakota	§15.2.14.1, 221 (1984) 2 years from injury; tolled for fraud or foreign object until end of treatment; tolled for minority for 3 years or until age 8 if under age 6; metal illness: tolls statute up to 5 years; 1 year from removal; wrongful death: 3 years from death	§21.3.11 (1985) \$500,000 cap on non-economic damages; prior to 1985, cap on all damages of \$1 million	§21.3.12 (1977) Discretionary offset in medical liability cases, except benefits that have a right if subrogation or were paid for by plaintiff	§21.3A.1-12 (1986-1988) Mandatory periodic payment of future damages in excess of \$200,000 or past and future damages of \$500,000, whichever is less; discretionary at the request of a party	§21.25B.1 (1976) Parties may agree to arbitrate for past and future services; revocable as to future services			The South Dakota Supreme Court rejected the discovery rule in <i>Alberts v. Giebink</i> , 299 N.W. 2d 454 (1980); law reducing statute of limitation for minors ruled unconstitutional in <i>Lyons v. Lederle Laboratories</i> , 440 N.W.2d 769 (S.S. 1989); \$500,000 cap on non-economic damages ruled unconstitutional, reviving prior statute, in <i>Knowles v. U.S.</i> , 544 N.W.2d 183 (S.D. 1996)
Tennessee	§29.26.116 (1975) 1 year from discovery, but no more than 3 years from act unless foreign object; foreign object: 1 year from discovery; under 18 or unsound mind: 1 year from removal		§29.26.119 (1975) Mandatory offset except for assets purchased by plaintiff or private insurance		§29.5.101 All causes of action may be submitted to the decision of arbitrators except where 1 of the parties is an infant or a person of unsound mind	§29.26.115(b) (1975) Expert witness must be licensed in Tennessee or contiguous state and practice for one year preceding date of injury	§29.26.120 (1975) Plaintiff's attorney fees in a medical injury suit shall not exceed third of all damages awarded	Tennessee Supreme Court upheld the constitutionality of statute of limitation in <i>Harrison v. Schrader</i> , 569 S.W. 2d 822 (Tenn. 1982)
Texas	Civ. §4590i.10.01 (1977) 2 years from occurrence (discovery); minors under 12: until age 14; otherwise applies to all regardless of minority or disability	Civ. §4509.11.02-04 (1977) approximately \$1.3 million cap on wrongful death damages, adjusted annually for inflation; Civ. Prac. & Rem. §41.008 (1995) punitive damages cap as of Sept. 1, 1995 of 2 times economic damages, plus non-economic damages (not to exceed \$750,000), or \$200,000, whichever is greater, with certain exclusions				§14.01 Expert must have experience relating to complaint; Tex. Rev. Civ. Stat. Ann. 4590I, §13.01 plaintiff must post file on expert w/in 90 days of filing		The Texas Supreme Court struck down limit on damage awards as unconstitutional in <i>Lucas v. United States</i> , 757 S.W. 2d 687 (Tex. 1988); limit subsequently found constitutional only in wrongful death cases in <i>Rose v. Doctors Hosp.</i> , 801 S.W.2d 841 (Tex. 1990)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Utah	§78.14.14 (1985) 2 years from discovery but not more than 4 years from act; foreign object or fraud: 1 year from discovery, applies to all persons regardless of minority or disability	§78.14.7.1 (1986) \$250,000 cap for non-economic losses	§78.14.4.5 (1985) Mandatory offset by court except for benefits where subrogation rights exist	§78.14.9(5) (1986) Mandatory periodic payment of future damages that exceed \$100,000, exclusive of attorneys' fees and costs	§78.14.8-16 (1985) Decision of pre-litigation panel may be considered binding arbitration upon written agreement of parties; mandatory submission of claims to panel; panel recommendations not admissible at subsequent trial		§78.14.7(5) (1985) Contingency fee shall not exceed third of award	Utah Supreme Court ruled unconstitutional the minority provision of the statute of limitation in <i>Lee v. Dr. Lynn Craufin</i> ; <i>Griffith v. Dr. J. Dallas Van Wagoner</i> , nos. 20995, 21063, 90095, Utah Supreme Court, Nov. 30, 1993; this reversed an earlier decision in <i>Allen v. International Health Care, Inc.</i> , 635 p. 2d 30 (1981)
Vermont	§12.521, 551 (1977) 3 years from injury or 2 years from reasonable discovery, but no more than 7 years from act, excluding concealment and foreign objects; foreign object: 2 years from discovery; tolled until removal of disability				§12.7002 (1995) Mandatory submission to pretrial arbitration panel; findings subject to appeal unless parties agree to binding arbitration			
Virginia	§8.01.229, 243 (1959, 1987) 2 years from injury, but not more than 10 years from act; foreign object or fraud: 1 year from reasonable discovery; infants: 5 years from date of accrual of cause of action; for claims accruing on or after July 1, 1987, minors under 8: age 10; age 8 or older: 2 years after last treatment unless; minors who were 10 or older on or before July 1, 1987: 2 years from that date to bring an action	§8.01.581.15 (1976-1983) \$1.5 million cap on recovery damages for bodily injury or death, shall increase on July 1, 2000 by \$50,000 and every July 1 after that until 2007 and 2008 when the final increases will be \$75,000 per year; cap applies for each injury, regardless of number of theories or defendants; §8.01.38.1 (1992) \$350,000 cap on punitive damages		§8.01.424 Periodic payment of awards permitted, if reviewed by court and secured by bond or insurance	§8.01.581.2, 8 (1997) Review by pretrial panel by request; findings non-binding; testimony of panel members, except chair, admissible; §8.01.581.12 (1997) parties permitted to agree in advance of treatment to binding arbitration, with period of patient withdraw	§8.01.581.20 (1992) Claims must be supported by expert testimony; physicians must have had an active clinical practice in the field about which he will testify within year of incident		Virginia Supreme Court upheld constitutionality of a prior \$750,000 cap on damage awards in <i>Etheridge v. Medical Center Hospitals</i> , 376 S.E. 2d 525 (Va. 1989); pretrial screening panel statute upheld as constitutionality in <i>Speet v. Bauaj</i> , 377 S.E. 2d 397 (Va. 1989)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Washington	§4.16.350 (1971, 1988) 3 years from injury or 1 year from discovery, whichever is later, but no more than 8 years after act; fraud, concealment or minority toll statute; foreign object: 1 year from discovery; wrongful death: 3 years from death	§4.56.250 (1986) Noneconomic damages in person injury suit may not exceed an amount determined by multiplying 0.43 by the average annual wage in state and by the life expectancy of the person incurring noneconomic damages; a plaintiff's life expectancy shall not be less than 15 years for the purpose of determining maximum noneconomic damages	§7.70.080 (1976) Information on collateral sources may be introduced except for insurance purchased by plaintiff or employer	§4.56.260 (1986) Mandatory periodic payments in personal injury actions of future economic damages of \$100,000 or more			§7.70.070 (1976) In any medical injury the court shall determine the reasonableness of each party's attorney fees	Washington Appellate Court upheld constitutionality of statute of limitation on constitutional in <i>Duffy v. King Chiro. Practice Clinic</i> , 565 P.2d 435 (Wash. App. 1977); limit on damage awards struck down in <i>Sofie v. Fibreboard Corporation</i> , 771 P.2d 711 (Wash. 1989)
West Virginia	§55.7B.4 (1986) 2 years from injury or reasonable discovery, whichever occurs last; in no event longer than 10 years after injury; minors under 10: 2 years from injury or by age 12, whichever provides a longer period; statute tolled for any period during which fraud or concealment prevents discovery	§55.78.9 (1986) \$1 million cap on non-economic damages; court must instruct jury				§55.75.7 (1986) Expert witness must be licensed physician and engaged in the same or substantially similar medical field as defendant		West Virginia Supreme Court upheld constitutionality of limit on damage awards in <i>Robinson v. Charleston Area Medical Center</i> , no. 20109, W. Va. Sup. Ct. App., December 20, 1991
Wisconsin	§893.55, 56 (1979) 3 years from injury or 1 year from discovery, but not more than 5 years from act; foreign object: 1 year from discovery or 3 years from act, whichever is later; minors: by age 10 or standard provision, whichever is later	§893.55(4)(d) (1995) For acts as of May 25, 1995, \$350,000 cap adjusted annually for inflation for non-economic damages, excluding wrongful death cases, which are limited to \$500,000 for a child and \$350,000 for an adult	§893.55(7) Effective May 25, 1995, collateral source information is admissible at trial	§655.015 (1986, 1995) For settlement or judgement for act occurring on or after May 25, 1995 in excess of \$100,000, award paid into interest bearing fund, from which periodic payments are made	§655.42, 442-5 (1985, 1989) Voluntary submission of medical injury claims to mediation panel; findings of panel inadmissible at subsequent court action		§655.013 (1986) Sliding scale may not exceed: third of first \$1 million or 25% or first \$1 million recovered if liability is stipulated within 180 days, and not later than 60 days before the first day of trial and 20% of any amount exceeding \$1 million	The Wisconsin Supreme Court upheld the constitutionality of earlier statute of limitation in <i>Rod v. Farrell</i> , 291 N.W. 2d 568 (1980); earlier cap on non-economic damages ruled unconstitutional in <i>Jelenik v. The Saint Paul Fire and Casualty Insurance Company</i> , No. 92.1858, Wis. Sup. Ct., March 14, 1994; periodic payment awards upheld in <i>State ex re. Strykowski v. Wilkie</i> , 261 N.W. 2d 434 (Wis. 1978)

States	Statute of Limitations	Limits on Damage Awards	Collateral Source Rules	Periodic Payment of Awards	Pretrial Screening Panels	Expert Witness Rules ¹	Attorneys' Fees	Case History
Wyoming	§1.3.107, 1.38.102 (1977) 2 years from injury or reasonable discovery; minors: until age 8 or within 2 years, whichever is later; legal disability: 1 year from removal; wrongful death: 2 years from death	Limits on damage awards prohibited by state constitution					Ct. Rules, Contingent Fee R. 5 (1997) Where recovery is \$1 million or less: third if claim settled prior 60 days after filing, or 40% if settled after 60 days or judgement; 30% over \$1 million	Wyoming Supreme Court struck down the 1986 pretrial screening panel statute requiring mandatory submission of all medical injury claims to a "medical review panel" in <i>Hoem v. Wyoming</i> , 756 P.2d 780 (Wyo. 1988)

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American Tort Reform Association (ATRA)

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